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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,273	02/20/2002	Rajendra R. Damle	M-9927-1P US	4840
33031	7590	10/06/2005	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			COULTER, KENNETH R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,273	DAMLE, RAJENDRA R.	
	Examiner	Art Unit	
	Kenneth R. Coulter	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/27/03</u> . | 6) <input type="checkbox"/> Other: ____. |

RD

DETAILED ACTION

1. Examiner requests that the cross-references to related applications data (p. 1, line 6 of the specification) be updated with appropriate serial numbers.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1 – 19 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 - 19 of copending Application No. 10/927,768. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1 – 19 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 - 19 of copending Application No. 10/936,087. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 – 6, 9, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Talbot et al. (U.S. Pat. No. 6,697,381) (Packet Channel Architecture).

5.1 Regarding claim 1, Talbot discloses a frame structure comprising:
super-channel information (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 - 45).

5.2 Per claim 2, Talbot teaches the frame structure of claim 1, wherein
said super-channel information comprises a super-channel identifier and said super-channel identifier identifies a super-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

Art Unit: 2141

5.3 Regarding claim 3, Talbot discloses the frame structure of claim 2, further comprising:

sub-channel information (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

5.4 Per claim 4, Talbot teaches the frame structure of claim 3, wherein said sub-channel information comprises:

a sub-channel identifier, wherein said sub-channel identifier identifies a sub-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

5.5 Regarding claim 5, Talbot discloses the frame structure of claim 4, wherein said super-channel information further comprises:

a sub-channel bitmap, wherein each bit in said sub-channel bitmap represents an operational state of a corresponding sub-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45).

5.6 Per claim 6, Talbot teaches the frame structure of claim 5, wherein said sub-channel bitmap comprises:

a bit corresponding to an operational state of said sub-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

Art Unit: 2141

5.7 Regarding claim 9, Talbot discloses the frame structure of claim 4, further comprising:

alternate super-channel information, wherein said super-channel information comprises an alternate super-channel identifier and said alternate super-channel identifier identifies an alternate super-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 5, lines 33 - 45).

5.8 Per claim 18, Talbot teaches the frame structure of claim 4, further comprising:

sub-channel state information, wherein said sub-channel state information conveys a state of said sub-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

5.9 Regarding claim 19, Talbot discloses the frame structure of claim 18, wherein said sub-channel state information conveys a state of a connection between a far-end transmitter and a near-end receiver over said sub-channel (Abstract; Figs. 4, 4A, 4B, 4C, 4D; col. 2, lines 39 – 59; col. 3, lines 37 – 45; col. 5, lines 33 - 45).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

Art Unit: 2141

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER
PRIMARY EXAMINER
